

WHAT HAPPENS IF YOU ELECT MEDIATION?

If you request mediation, a mediator will:

- meet with you to explain the mediation process.
- ask you to prepare notes to organize your thoughts to make the mediation as productive as possible.
- ask you about the interests or needs that must be met for a satisfactory settlement of your concerns.
- contact the person with whom you are having the dispute to arrange for a meeting and request the same information.
- meet with you and the other party as many times as necessary to obtain a resolution.
- draft a resolution agreement to be signed by all parties or refer you back to an EEO Office to have your rights explained.

Since everything that went on in the mediation is confidential, you will not receive a report on the mediation. However, you will receive a letter giving you the right to file a formal complaint within **15 calendar days** of your receiving the letter.

MUST YOU FILE AN EEO COMPLAINT TO GET A MEDIATOR?

No. You may go directly to an NIH ADR resource listed on the back of this brochure with your concern at any time. However, if you want to file a precomplaint and use ADR, you must do so within **45 calendar days** of the date of an action or event you believe is discriminatory.

NIH OFFICE OF EQUAL OPPORTUNITY Complaints Management and Adjudication Branch (301) 496-1551

IC EEO OFFICES

Office of the Director – (301) 402-4157
Office of Research Services – (301) 496-1988
Clinical Center – (301) 496-1584
Center for Information Technology – (301) 402-2268
Center for Scientific Review – (301) 435-1279
Fogarty International Center – (301) 496-4625
Nat. Cancer Institute – (301) 435-8524
Nat. Center for Complementary Medicine – (301) 594-2751
Nat. Center for Research Services – (301) 496-1988
Nat. Eye Institute – (301) 496-8990
Nat. Human Genome Research Institute – (301) 496-7531
Nat. Heart, Lung and Blood Institute – (301) 496-1763
Nat. Institute on Aging – (301) 402-3313
Nat. Institute on Alcohol Abuse and Alcoholism – (301) 443-4031
Nat. Institute of Allergy and Infectious Diseases – (301) 496-1012
Nat. Institute of Arthritis and Musculoskeletal and Skin Diseases – (301) 496-1152
Nat. Institute of Child Health and Human Development – (301) 496-2153
Nat. Institute on Drug Abuse – (301) 443-7968
Nat. Institute on Deafness and Other Communication Disorders – (301) 402-6415
Nat. Institute of Diabetes and Digestive and Kidney Diseases – (301) 496-3670
Nat. Institute of Dental and Craniofacial Research – (301) 402-7590
Nat. Institute of Environmental Health Sciences – (919) 541-2475
Nat. Institute of General Medical Sciences – (301) 594-2751
Nat. Institute of Mental Health – (301) 443-6907
Nat. Institute of Neurological Disorders and Stroke – (301) 496-5332
Nat. Institute of Nursing Research – (301) 402-5790
National Library of Medicine – (301) 496-1046

NIH ADR RESOURCES

NIH Office of the Ombudsman – (301) 594-7231
NIH Center for Cooperative Resolution – (301) 594-7231
ORS Center for Alternative Dispute Resolution – (301) 435-2329

THE USE OF ALTERNATIVE DISPUTE RESOLUTION IN NIH EEO COMPLAINT PROCESSING



PREPARED BY THE
NIH OFFICE OF EQUAL OPPORTUNITY

WHAT IS ALTERNATIVE DISPUTE RESOLUTION?

Alternative Dispute Resolution (ADR) involves the use of a neutral party in resolving differences. There are many ADR processes. However, mediation is the most frequently used ADR process in the Federal EEO complaint process. Mediation is offered as an option to traditional EEO counseling and as a means of resolving formal complaints. Mediation works best when used early in the complaint process before positions are set and is very effective in situations requiring creative solutions.

IS ADR RIGHT FOR YOUR COMPLAINT?

Persons filing precomplaints may choose to have an EEO counselor or a mediator. EEO counselors are trained to inform persons of their rights in the complaint process and to resolve complaints. If resolution is not possible, an EEO counselor prepares a report that will be needed if a formal complaint is filed. The sole responsibility of mediators is to facilitate the resolution of disputes. Therefore, they strive for resolution more intensely than EEO counselors.

EEO counseling is very effective in cases where there are factual disputes because counselors are authorized to obtain documents that may lead to resolving the disputed issues. However, in disputes dealing with work relationships where strong emotions are present, mediation is a valuable tool in creating a climate in which the two parties can exchange information and recommend ways of resolving the differences between them.

The following is a more in-depth comparison of EEO counseling and mediation in the complaint process.

HOW ARE EEO COUNSELING AND MEDIATION SIMILAR?

- The primary goal of EEO counseling and mediation is to resolve disputes.
- EEO counseling and mediation both use neutral third parties to resolve disputes.
- Settlement agreements resulting from EEO counseling and mediation are negotiated based on the interests of the parties and not the merits of the complaint.
- Settlement agreements achieved in EEO counseling and mediation are enforced by the Office of Equal Opportunity (OEO).
- EEO counselors and mediators are trained to perform their jobs.
- EEO counseling and mediation are subject to standards of confidentiality.
- If EEO counseling and mediation are unsuccessful in resolving a dispute, the right to file a formal complaint is retained.

HOW ARE EEO COUNSELING AND MEDIATION DIFFERENT?

- EEO counseling results in a written report if a precomplaint is not resolved. There is no written record of mediation.
- EEO counseling involves all witnesses with relevant information in a dispute. Mediation involves only the parties in dispute.
- EEO counselors may be called as witnesses in subsequent legal proceedings. Mediators cannot be called as witnesses.

- The standard of confidentiality is stricter in mediation than in EEO counseling.
- While the regulations governing the EEO complaint process provide a time frame of up to **90 calendar days** for the completion of EEO counseling and mediation, mediation is usually completed more quickly than EEO counseling.

WHAT HAPPENS IF YOU ELECT TRADITIONAL EEO COUNSELING?

If you decide to have EEO counseling, the EEO Counselor will:

- contact you to listen to your concerns and obtain from you a proposal for resolving your precomplaint.
- contact witnesses to determine what facts are relevant to the case.
- determine what documents are needed to complete a limited inquiry into the matter.
- inform a management official of your resolution proposal.
- explore other resolution options and present them to you.
- Conduct a final interview summarizing the information obtained during the inquiry if it is not possible to resolve the precomplaint.

After the final interview is conducted, you will receive a letter giving you the right to file a formal complaint within **15 calendar days** of receiving the letter.